

PLANNING COMMISSION
M I N U T E S

The Winchester Planning Commission held its regular meeting on Tuesday, June 16, 2009 at 3:00 p.m. in the Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

PRESENT: Masters, Adams, Talley, Shore, Weber, Wiley (6)
ABSENT: Sublett (1)
STAFF: Youmans, Moore, Diem and Walsh
VISITORS: Christina Thompson, Kelly Presgraves, Betty Russell,
Rachel Dailey

CALL TO ORDER: Chairman Masters called the meeting to order at 3:00pm.

APPROVAL OF MINUTES:

Commissioner Weber moved to approve the minutes of the May 19, 2009 meeting as presented. The motion was seconded by Commissioner Adams.

Motion passed 6-0

CORRESPONDENCE

A revised packet was presented that included the following:

Item 2B - CU-09-05 – revised staff report and request letter from the applicant
Item 3B,1 - SP-09-92 – site plan to consideration for administrative authorization

CITIZEN COMMENTS

None

REPORT OF FREDERICK COUNTY LIAISON

None

PUBLIC HEARINGS

TA-09-66 AN ORDINANCE AMENDING ARTICLE 20 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO THE BOARD OF ZONING APPEALS

Mr. Diem presented the request to remedy attendance and quorum issues within the Board of Zoning Appeals, as well as, incorporate recently adopted amendments to the Code of Virginia regarding voting procedures for the Board of Zoning Appeals.

As provided for within the Code of Virginia, §15.2-2308, as amended, the Circuit Court of the locality may appoint up to three (3) alternates to the Board of Zoning Appeals for the purposes of maintaining at least a quorum for each scheduled public hearing. Additionally, a recent amendment to the Code of Virginia specifically provides that no action of the Board shall be valid

unless authorized by a majority vote of those present and voting. Although the latter of these amendments has long been in practice within the City, the opportunity to update the Zoning Ordinance in conjunction with the Code of Virginia exists and should not be ignored.

There have been few occasions in which the Board of Zoning Appeals was unable to hold a public hearing, due to a lack of a quorum (three persons for a five-member Board). The consequences of which, include: additional expense for re-advertising, inefficient use of staff time, inconvenience for applicant(s) and other attending Board members, and unnecessary delay for public hearing matters. In order to prevent this from re-occurring, staff proposes that the Circuit Court of the City of Winchester be enabled – through this text amendment – to appoint up to three additional Board members as alternates, one of which may be a current Planning Commission member.

Chairman Masters opened the public hearing.

No one spoke regarding the proposed amendment.

Chairman Masters closed the public hearing.

Commissioner Weber moved to forward TA-09-66 to City Council recommending approval because the amendment represents good planning practice and incorporates existing and recently amended provisions of the Code of Virginia pertaining to Boards of Zoning Appeals. The motion was seconded by Commissioner Adams.

Motion passed 6-0

CU-09-05 Request of Christina Thompson of Old Town Enterprises LC for a Conditional Use Permit for Neighborhood Convenience Establishment at 715 S Kent St zoned Limited High Density Residential (HR-1) District.

Mr. Youmans presented the request to establish a mixed use project consisting of a market retail business as Phase 1 and a combination of retail market with café use as Phase 2 in conjunction with a single-family residence. The proposal entails reuse of an existing nonconforming structure with a second-story addition for the permitted residential use.

The applicant has secured variances from the Board of Zoning Appeals for relief of lot area, lot width, side and rear setback and required off-street parking, so as to accommodate a change of use of a previously nonconforming use and occupancy.

The 62-year old commercial structure has been the subject of several actions including; a nonconforming use permit (1977), three Board of Zoning Appeals cases ('78, '84, and '09), and six Certificates of Occupancy for Business ('86, '87, '90, '90, '92, and '93). There is little or nothing with regards to the subject property that would be considered as conforming to the current Zoning Ordinance provisions for HR-1 use and occupancy. The building and property have been vacant for more than two years.

In 1957, a Laundromat/Cleaners business was established and the commercial structure has served as a neighborhood convenience establishment for the surrounding community. As part of a 1978 BZA case that was denied, the applicant proposed to provide additional off-street parking to serve the nonconforming neighborhood convenience establishment. The proposal included

demolition of an existing residential dwelling at an adjacent property to 715 South Kent Street. Concerns were raised that the dwelling intended to be demolished for the purposes of creating the off-street parking area was to be identified on the National Register for Historic Places. The property is within the National Historic District, but not the Local HW District.

In 1984, the BZA approved a revision to the existing nonconforming use as a neighborhood convenience establishment within the limits of the existing structure. The applicant requested retaining 14 washing machines and 6 dryer machines, along with a new small grocery/deli use for residents within the surrounding neighborhood. As stated within the applicant's letter of intent at that time, "*...My reason for requesting this combined operation is so that the Laundromat would have an attendant on duty. The laundry operation alone does not financially warrant full time help, without such supervision invites vandalism. I believe that this combined operation would be an asset to the neighborhood and an improvement over the past...*" The BZA approved the request, citing that it would improve the property and upgrade the general area, and pose no hardship upon adjacent properties.

Recently, the Zoning Administrator met with the applicant to discuss their intended use of the existing structure. Initially, the applicant proposed to establish a single use of mini, personal storage spaces for persons in the immediate vicinity who had insufficient storage space within their rental dwelling units. Neighborhood Convenience Establishment is identified as a use allowed by Conditional Use Permit in the HR-1 District, pursuant to Section 5.1-2-8. The broad definition of a *neighborhood convenience establishment* would appear to accept this type of proposed use.

Since the initial discussion with the applicant, the former childhood residence of Patsy Cline (600 block of South Kent Street) has been approved for use as a museum honoring the country music icon. The applicant met with representatives of Celebrating Patsy Cline, who have suggested that a small café or soda fountain use be considered within the subject property. The use would fall within the neighborhood convenience establishment category and would most likely resemble the use that was approved by the Board of Zoning Appeals in the referenced 1984 case.

The applicant has also expressed an interest in creating a small, single-family dwelling unit, by expanding the structure, vertically. An existing overhead garage door, facing South Kent Street, will be utilized for off-street parking of one vehicle for the proposed dwelling unit. The added benefit of a new dwelling unit would include security, as was identified as a need during the 1984 request. Elevations and floor plans have been submitted showing how the second-story addition for the two-bedroom dwelling unit would appear.

At the June 9, 2009 Commission worksession, concerns were raised as to whether or not a mini-storage use fit under the definition of a neighborhood convenience establishment. At that meeting, the applicant mentioned an interest in proposing retail market use as an alternative to storage use and as an initial use prior to the Patsy Cline Museum generating enough demand for a café use.

On June 11, 2009, the applicant forwarded an updated letter along with updated plans calling for a phased reuse of the property. Phase 1 would consist of the residence along with 1,905 sq. ft. of retail market (including 300 sq. ft. of optional seasonal display). Phase 2 would entail converting 780 sq. ft. of interior market space to café use in addition to converting the optional outdoor display to optional outdoor seating area. Floor plans depicting the specific layouts for each phase were provided.

Chairman Masters opened the public hearing.

Applicant Christina Thompson explained that she obtained the property with the hope of providing something that would benefit the community. She stated a market would be a great addition considering that there is not a close establishment for last minute shopping. She hopes to offer fresh fruits and vegetables to the local community that they would otherwise have to travel to buy.

Kelly Presgraves of 2310 Mulberry Ct Stephens City owns the property between this location and the museum. She stated it is a wonderful idea and that she is tired of looking at the empty, ugly building. However, she is concerned about potential traffic and parking problems. She asked about the amount of traffic this would bring to Kent Street. During certain times of day it can be dangerous with speeding traffic and cars parked on both sides of the street.

Chairman Masters closed the public hearing.

Mr. Youmans stated that Board of Zoning Appeals has already said that there is a hardship where parking is concerned by granting the variance. With the hardship having been decided, as a Conditional Use request the Commission must now balance the potential impact of not having off-street parking. He stated the intent of the establishment was not to bring people in but to supply the neighborhood, which is consistent with the trend of where the city wants to go. He added that having parking on both sides of the street causes people to slow down. This establishment could also lessen traffic due to people not having to drive to the store.

Chairman Masters asked how many spaces are required.

Mr. Moore explained that without consideration of the variance, 14 spaces would be required by the combination of proposed uses, including the residence.

Mr. Youmans reminded the Commission that the Board of Zoning Appeals already granted a variance for those 14 spaces.

Mr. Adams stated that he liked the new proposal and found it fit better within the Neighborhood Convenience Establishment use. He had one concern with the retail market and the amount of trash that could accumulate. He suggested a condition be added for daily trash removal. He stated that overall this establishment could greatly benefit the neighborhood. He stated that he has no problem eliminating the draft condition restricting beer and wine sales.

Mr. Shore asked if the beer and wine would be on or off premises.

Mr. Youmans stated that it would be whatever the ABC Board granted as a license.

Mr. Weber commented that no floor plans were included for the residential use in the rear addition.

Mr. Youmans explained that the single family portion of the proposed use is not a conditional use and that no floor plans were required for that aspect of the request.

Mr. Talley asked the applicant if she was comfortable with the hours of operation that are being suggested.

Mrs. Thompson stated that those were the hours she intended to keep.

Commissioner Adams moved to forward CU-09-05 to City Council recommending approval of the phased reuse proposal subject to the following:

- 1) *Daily trash removal of all food wastes associated with the retail market and/or café use;*
- 2) *Installation of signage prohibiting loitering and employees to enforce the policy;*
- 3) *Hours of operation to be no earlier than 8:00am and no later than 8:00pm;*
- 4) *The applicant taking into consideration the concerns of neighbors and addressing them as they may come up;*
- 5) *Staff review and approval of the related site plan; and,*
- 6) *The applicant applying for review and reapproval of the café aspect of the conditional use permit by City Council after three (3) years with the reapproval fee being limited to just the costs of advertising the public hearings.*

The approval of the CUP is recommended because the use, as conditioned, should not adversely affect the health, safety or welfare of residents and workers in the neighborhood nor be injurious to adjacent properties or improvements in the neighborhood. The motion was seconded by Commissioner Weber.

Motion passed 6-0.

TA-09-89 AN ORDINANCE TO AMEND ARTICLE 18, SECTION 18-6 OF THE WINCHESTER ZONING ORDINANCE PERTAINING TO MINIMUM REQUIRED OFF-STREET PARKING

Mr. Diem presented the request for a series of text amendment modifications directly related to the off-street parking requirements in the City of Winchester. As identified by the volume of text provided, it is intended to be a systemic revision, rather than a haphazard attempt to address one or more separate issues.

Planning and Development team staff members have been considering several issues regarding off-street parking regulations and have developed a comprehensive re-write of the off-street parking provisions.

The existing Ordinance does not explain why off-street parking is essential to good planning practice or site improvement.

As does often occur within the City, tenants and uses change within existing buildings, with little or no structural improvements to the commercial space. Past and present practice has been to examine the available off-street parking at the site and if necessary, require a revised site plan. Additional site improvements may also be required so as to accommodate the intended change of use.

Similar to the change of use provisions, administrative reductions and waivers of required off-street parking can be made available for situations where there is a.) a 25% (not to exceed 1,000sf) enlargement of the building; or, b.) when the property is located within the B-1, RB-1, PC, or PUD Districts upon a determination that: (i) space limitations do not permit the provision of additional parking, (ii) there is adequate on-street parking available, and/or (iii) the provision

of additional parking would necessitate the demolition of an existing structure, in whole or in part. (§18-6-1.5)

Required widths of spaces are proposed to be reduced for 45° angle parking and for compact parking spaces for employees. The current requirement for parking space width is 9'. The amendment would reduce it by 0'6" for 45° angle parking and 1'0" for compact spaces. (§18-6-2.4)

It is unnecessary in a built, urban environment, to mandate that each individual property be required to provide off-street parking on the site. As predicated by rising gas costs, concerns over eco-friendly means of transportation, and spatial limitations, the ability to locate off-street parking areas on separate parcels; but, within walking distance is of special consideration. The draft amendment expands provisions already in place for off-site, off-street parking. (§18-6-3.1)

The City's commitment to "Going Green" requires a review of current parking provisions pertaining to surface coverage. While impervious surfaces provide the most stable surfaces for parking and routine maintenance, the effects of surface water run-off and solar radiation from vast amounts of paved parking can have a negative impact on the environment. Administrative waivers of impervious surface parking areas are proposed within the Flood Plain (FP) district, as well as, the allowance of permeable surface materials are two proposals found within §18-6-3.5.

The number of indoor recreation facilities has increased during recent years. Current provisions in the Ordinance do not acknowledge the time period(s) that most indoor recreation facilities typically operate. By identifying indoor recreation facilities as a use that potentially will operate during evening hours and weekends, greater flexibility can be afforded to those types of uses within the time-shared parking arrangement. (§18-6-4.1)

Within §18-6-5.1, two major components are proposed for revision, including the parking ratios (i.e., spaces per square feet of use), and the types of uses accounted for. Many different types of new uses have been developed in recent years, with little or no specific correlation to parking requirements. Additionally, the amount of parking that was previously thought to be sufficient for certain types of uses, may actually be excessive. The formatting of the parking table has also been modified for improved comprehension and legibility.

Incrementally, the area of off-street parking exemption has slowly expanded over the past several years. A proposal within the re-write of §18-6-6.1 is to definitively expand the special exception area. Another suggestion is to replace a verbal description of the exempted area with a graphic illustration.

To further demonstrate the City's commitment to "Going Green" and striving for sustainability, a variety of transportation options must be considered. The inclusion of public transit, pedestrian, and bicycle modes of transportation allows the City to consider reductions in the amount of off-street parking required in certain areas. More detailed explanations of the bonuses and percentage reductions are provided in §18-6-6.3.

An innovative tool that can assist citizens, developers, and City staff alike, is the incorporation of graphic illustrations within the Ordinance. There are currently no such renderings provided in the Ordinance, but a few examples are included within Draft 6 of the Off-Street Parking amendments to provide a better understanding of the requirements.

Chairman Masters opened the public hearing.

No one spoke regarding the proposed amendment.

Chairman Masters closed the public hearing.

Mr. Youmans presented a spreadsheet showing some scenarios where parking could be reduced or exempt.

Chairman Masters stated that the use of the word “adequate” in terms of parking is too vague. She asked that it be made more specific.

Mr. Talley stated that parking is determined by square footage. He felt that would be the adequate standard.

Mr. Diem explained that it may be possible to determine the amount of parking based on what was in walking distance. It would require an intensive review but it could be calculated.

Mr. Wiley asked where the LEED information came from.

Mr. Diem explained that he looked into what other municipalities were doing and pulled information from there.

Chairman Masters asked if there was anything that could be done to put a cap on the parking spaces for large retail complexes. She felt that they tend to over build.

Mr. Diem stated that staff has to look at this in more detail. Staff is considering an impact fee or possibly requiring more green space.

Chairman Masters asked if they could require existing retail spaces to put in green space and eliminating some of the large parking areas in town.

Mr. Diem explained that it would not be possible to retroactively try to impose fees but it will affect new business.

Mr. Adams stated that this would be favorable for new business by reducing the need to go before the Board of Zoning Appeals. However, business could consider an impact fee the cost of doing business and pass that cost on to the consumer. This would not benefit the city.

Chairman Masters requested that all the Commissioners receive a copy of the spreadsheet along with scenarios to go with each item.

Commissioner Talley to table TA-09-89 and to continue the public hearing until the July meeting. The motion was seconded by Commissioner Shore.

Motion passed 6-0.

NEW BUSINESS

- A. Recommendation to Council: **TP-09-93** Request for reapproval of a temporary permit for two (2) conjoined structures at the Winchester Medical Center for use by the BioMed Department.

Commissioner Adams moved to forward TP-09-93 to City Council recommending reapproval for a period not to exceed six (6) months and that this is to be the final approval for these units. The motion was seconded by Commissioner Weber.

Motion passed 6-0.

- B. Administrative Authorization:

- 1) **SP-09-92** Painter-Lewis PLC 29 Weems Ln Da-Da's Ice Cream Shop

Commissioner Shore moved to grant administrative authorization for SP-09-92. The motion was seconded by Commissioner Wiley.

Motion passed 6-0.

ADJOURN

With no further business to discuss, the meeting was adjourned at 4:36pm.

Susan Masters, Chairman